

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAURICE VASTER,

Plaintiff,

vs.

CARLOS SABALA, *et al.*,

Defendants.

NO. CV-11-5164-CI

ORDER DISMISSING COMPLAINT
WITHOUT PREJUDICE

BEFORE THE COURT is Defendants' Motion to Dismiss Pursuant to FED. R. CIV. P. 12(c) and Plaintiff's Response to Defendants' Motion. ECF No. 20, 27. Plaintiff Maurice Vaster, an inmate in the custody of the Washington State Department of Corrections (DOC), appears *pro se*; Defendants are represented by Assistant Attorney General Mikolaj T. Tempski.

Plaintiff filed his First Amended Complaint on April 23, 2012, claiming violations of his civil rights under 42 U.S.C. § 1983. ECF No. 10. Defendants seek dismissal of the First Amended Complaint for failure to state a claim and failure to exhaust administrative remedies as required by the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e. ECF No. 21 at 4, 9. In his response to the Motion to Dismiss, Plaintiff concedes he has not filed grievances regarding retaliation and equal protection claims as required by the DOC grievance program and, therefore, he has failed to exhaust available administrative remedies. ECF No. 27.

Under the PLRA, Congress mandated exhaustion of a state's administrative remedies prior to a prisoner's bringing an action

1 under 42 U.S.C. § 1983. 42 U.S.C. § 1997e(a); *Booth v. Churner*, 532
2 U.S. 731, 741 (2001). Failure to do so requires dismissal. *Booth*,
3 *supra*, at 735, 741 (complaint dismissed without prejudice for
4 failure to exhaust available administrative remedies). Accordingly,

5 **IT IS ORDERED** Defendants' Motion, **ECF No. 20**, is **GRANTED** in
6 part, and the First Amended Complaint, **ECF No. 10**, is **DISMISSED**
7 **WITHOUT PREJUDICE**.

8 The District Court Executive is directed to enter this Order,
9 enter judgment of dismissal without prejudice, forward a copy to
10 Plaintiff, and counsel for Defendants, and close the file.

11 DATED September 19, 2012.

12
13 s/ Rosanna Malouf Peterson

14 ROSANNA MALOUF PETERSON
CHIEF UNITED STATES DISTRICT COURT JUDGE